

## MINUTES

### MONTANA HOUSE OF REPRESENTATIVES 58th LEGISLATURE - REGULAR SESSION

#### COMMITTEE ON STATE ADMINISTRATION

**Call to Order:** By **VICE CHAIRMAN DEE BROWN**, on January 28, 2003  
at 8 A.M., in Room 455 Capitol.

#### ROLL CALL

**Members Present:**

Rep. Dee Brown, Vice Chairman (R)  
Rep. Larry Jent, Vice Chairman (D)  
Rep. Norman Ballantyne (D)  
Rep. Arlene Becker (D)  
Rep. Carol Gibson (D)  
Rep. Daniel S. Hurwitz (R)  
Rep. Hal Jacobson (D)  
Rep. Larry Lehman (R)  
Rep. Ralph Lenhart (D)  
Rep. Alan Olson (R)  
Rep. Bernie Olson (R)  
Rep. Don Roberts (R)  
Rep. Clarice Schrupf (R)  
Rep. Frank Smith (D)  
Rep. Pat Wagman (R)  
Rep. Cindy Younkin (R)

**Members Excused:** Rep. Debby Barrett, Chairman (R)  
Rep. Sue Dickenson (D)  
Rep. Jonathan Windy Boy (D)

**Members Absent:** None.

**Staff Present:** Joan Reiman, Committee Secretary  
Sheri Heffelfinger, Legislative Branch

**Please Note:** These are summary minutes. Testimony and  
discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing & Date Posted: HB 206, 1/21/2003; HB251, 1/21/2003  
Executive Action: HB 87 DO PASS, HB 114 DO PASS,  
HB 115 DO PASS AS AMENDED, HB 143 DO PASS,  
HB 154 DO PASS AS AMENDED; HB 155 DO PASS,  
HB 213 DO PASS AS AMENDED

HEARING ON HB 251

Sponsor: REP. JOE BALYEAT, HD 32, Bozeman

Opening Statement by Sponsor:

REP. BALYEAT opened saying this bill repeals SB 151, which was an ill-advised, illogical bill. It made it illegal for the university system to allow townspeople to use gyms or basketball courts, even for a fee. He compared it to the Capitol photocopiers in that they are not competing with the copy shops in town. The only people affected are those who can't or won't use private gyms or clubs, he said. He cited Judge v. Board of Regents, which declared the state cannot tell the university system what to do. He provided four handouts.

**EXHIBIT (sth18a01)**

**EXHIBIT (sth18a02)**

**EXHIBIT (sth18a03)**

**EXHIBIT (sth18a04)**

*{Tape: 1; Side: A; Approx. Time Counter: 0 - 17.7}*

Proponents' Testimony:

REP. SANDY WEISS, HD 13, Billings, co-sponsored the bill. She said people, in the three university towns targeted, need a place to work out. People go for noon basketball. HB 251 may not raise much money from the fees, but those facilities are sitting empty now, she asserted.

*{Tape: 1; Side: A; Approx. Time Counter: 17.7 - 19.2}*

Opponents' Testimony: None

Informational Testimony: None

Discussion:

REP. YOUNKIN asked to see sponsor's video (a local news clip of effects on SB 151) before the questions. CHAIRMAN BARRETT agreed and the sponsor complied.

*{Tape: 1; Side: A; Approx. Time Counter: 19.2 - 20.1}*

Questions from Committee Members and Responses:

REP. JACOBSON asked the sponsor for a recap of the history of SB 151. REP. BALYEAT said the university gyms were already in business when health clubs came in, but clubs did not feel threatened; he said health clubs pitch to a different consumer.

**REP. ROBERTS** asked **REP. BALLYEAT** if he talked to other gym owners in Bozeman. **REP. BALLYEAT** said he did not; he expected them to be here today. He talked to Larry Martin at MSU, who agreed with him that Bozeman private clubs were crowded now. **REP. HURWITZ** asked how much the university system is losing. **REP. BALLYEAT** said probably \$50,000/year, and the clubs don't need it, they are overcrowded now.

*{Tape: 1; Side: A; Approx. Time Counter: 23.5 - 30.8}*

**Closing by Sponsor:**

**REP. BALLYEAT** said these are logical reasons to repeal SB 151. He thanked members for a good hearing on HB 251.

*{Tape: 1; Side: A; Approx. Time Counter: 30.8 - 31}*

**HEARING ON HB 206**

**Sponsor:** **REP. CINDY YOUNKIN, HD 28, Bozeman**

**Opening Statement by Sponsor:**

**REP. YOUNKIN** said this bill would increase fees from driver's licenses and replacements from \$4 to \$6 per year. CDL licenses will not change. Duplicates will go from \$5 to \$10. The revenue will be distributed as per statute. In a special Highway Patrol retirement fund, a higher percentage will be deposited, decreasing the general fund by that amount. The rate will go from 16.7% to 32.6%, and the fund reports to each Senate Finance Committee. The fund is not actuarially sound now, and this will help without displacing other funds, she testified.

*{Tape: 1; Side: A; Approx. Time Counter: 31 - 37.4}*

**Proponents' Testimony:**

**Brenda Nordlund, Assistant Attorney General (AG), Motor Vehicle Division,** said this is a simple bill with an amendment. She said this is not about the pension trust, it is about the employer share of Montana Highway Patrol (MHP) retirement. Montana pays the employer part of 14% of MHP salary into their retirement account. The costs of producing these plastic cards is \$3.15 so \$5 hardly covers all the costs. If the bill fails, in FY04 a deficit will start in this fund. She passed around the Amendment.

**EXHIBIT (sth18a05)**

**Mike O'Connor, Executive Director, PERS**, said Department of Justice has to pay their share to the MHP Retirement. The 10.18% employer contribution has not changed, it just funds the system.

**Sgt. Tom Butler, MHP, Vice President of Association of MHP**, testified on his own time in favor. He gave out a brochure.

**EXHIBIT (sth18a06)**

**Mark Taylor, Association of MHP**, testified in favor.  
{Tape: 1; Side: A; Approx. Time Counter: 37.4 - 48.5}

Opponents' Testimony: None

Informational Witness: **Dean Roberts, Motor Vehicle Division Administrator**

Questions from Committee Members and Responses:

**REP. LEHMAN** asked Ms. Nordlund if the money is being invested. She replied there is no accrual at Department of Justice; the money goes into the MHP retirement. **REP. LEHMAN** asked Sgt. Butler if MHP were enrolled in Social Security. **Sgt. Butler** said it has been discussed but would take a larger percent from the state, and the timing was never right. **REP. LEHMAN** asked Mr. O'Connor if it would be to the state's advantage if MHP goes over to Social Security; he asked if MHP does not have one of the highest contributions. **Mr. O'Connor** said their retirement was not one of the highest, compared to police and firefighters. He said the public safety systems were not eligible for social security in 1948 when it started; since 1986 all new hires are covered by Medicare.

**REP. LEHMAN** asked him to read the percentage of employer contribution. **Mr. O'Connor** said it is 26.15%. **REP. WINDY BOY** asked Ms. Nordlund if the increases are a fee. She said they were a fee-for-service versus a fee-in-lieu-of-tax. She referenced HB 540 from 2001, where a fee that was really a tax was treated differently. **REP. BALLANTYNE** asked Ms. Nordlund, if the county kept 35% of the driver license fee, would it impact county and local taxpayers. **Ms. Nordlund** said there is no change to the county general fund, no negative impact to counties.

**REP. HURWITZ** asked her if there is a bill to mandate change in field operations; small towns don't have a driver exam station. **Ms. Nordlund** is not aware of any. **REP. BECKER** asked Sgt. Butler what the Traffic Safety Education Fund is used for. He deferred to **Dean Roberts, Motor Vehicle Division Administrator**, who said

it is to educate 15 year olds, usually in public high schools; OPI administers it.

*{Tape: 1; Side: A; Approx. Time Counter: 48.5 - 62}*

*{Tape: 1; Side: B; Approx. Time Counter: 0 - 4}*

**Closing by Sponsor:**

**REP. YOUNKIN** said the bill is not to give MHP a better deal, only to cover what the state is already obligated to do. It will make the fund actuarially sound and cover the cost of duplicate cards and employees' time and equipment. She urged do pass as amended, and gave copies of the amendment.

**EXHIBIT (sth18a07)**

*{Tape: 1; Side: B; Approx. Time Counter: 4 - 5.3}*

**EXECUTIVE ACTION ON HB 87**

**Motion:** **REP. JENT** moved **HB 87 DO PASS.**

**Discussion:**

**REP. JENT** apologized for the wait for Congress to allocate money for the punch card buy-out. This bill and HB 155 are tied together under the Help America Vote Act. He will try for retroactive factoring in of federal money. He has set up the special revenue account and the President has committed money. Under federal law, Montana must do this by 2004 unless they have compelling reasons not to. **REP. YOUNKIN** asked if this appropriation pays for the five counties who still have punch cards. **REP. JENT** said there is plenty of money there. **REP. BROWN** said Flathead County has the punch cards, and they are a mess. **REP. JENT** provided a fact sheet. Question was called.

**EXHIBIT (sth18a08)**

**Vote:** On a voice vote, motion carried 19-0 with **REPS. WINDY BOY** and **DICKENSON** voting by proxy.

*{Tape: 1; Side: B; Approx. Time Counter: 5.3 - 11.2}*

**EXECUTIVE ACTION ON HB 155**

**Motion:** **REP. OLSON** Moved **HB 155 DO PASS.**

**Discussion:**

**REP. JENT** said this is the Secretary of State's "big bill" to clean up garbled language in statute, and to deal with questionable votes.

**Vote:** On a voice vote, motion carried 19-0, with **REPS. WINDY BOY & DICKENSON** voting by proxy.

**EXECUTIVE ACTION ON HB 114**

**Motion:** **REP. ALAN OLSON** moved **HB 114 DO PASS.**

**Discussion:**

**REP. BROWN** said they need to make a conceptual amendment that a piece can be installed for "50 years from date of placement."

**REP. BALLANTYNE** said someone must bring it forward.

**Motion:** **REP. JACOBSON** moved **HB 114 AMENDMENTS.** He gave out the amendment and a fact sheet attached as Exhibits 9 and 10).

**EXHIBIT (sth18a09)**

**EXHIBIT (sth18a10)**

**Discussion:**

**REP. BALLANTYNE** said he opposes it because the 10-year waiting time had not elapsed to place a Bardenouve statue. **REP. BERNIE OLSON** echoed that; the waiting period was well-thought-out, he said. **REP. ALAN OLSON** also agreed. **CHAIRMAN BARRETT** said an amendment was brought to another committee, who also rejected it. **REP. BECKER** said she supports it; in 10 years he will be forgotten. **REP. BROWN** said she opposed, and the 10 years is to see if it withstands the test of time. Question was called.

**Vote:** On a roll call vote, the amendment failed 4-15. Voting aye were **REPS. BECKER, JACOBSON, LENHART** and **WINDY BOY.** **REPS. DICKENSON** and **WINDY BOY** voted by proxy.

**EXECUTIVE ACTION ON HB 115**

**Motion:** **REP. ALAN OLSON** moved **HB 115 DO PASS.**

**Discussion:** REP. BROWN said this will create a larger commission. REP. GIBSON said if it's larger, the same people don't have to do it all.

**Motion/Vote:** REP. ALAN OLSON moved HB 115 BE AMENDED. The amendment was distributed. On a voice vote, motion carried 19-0, with proxy votes by REPS. DICKENSON and WINDY BOY.

**EXHIBIT** (sth18a11)

**Discussion:**

REP. BROWN asked how Fish Wildlife and Parks (FWP) got involved. REP. HURWITZ said game wardens were part of it. REP. WAGMAN spoke to duties of firefighters. REP. LEHMAN said, "It will grow like topsy." REP. WAGMAN said, "Let's not create more agencies." REP. SMITH asked why FWP got crossed out on the amendment. CHAIRMAN BARRETT did not have an answer. REP. SMITH said they didn't need the amendment.

**Motion/Vote:** REP. ALAN OLSON moved HB 115 DO PASS AS AMENDED. On a voice vote, HB 115 DO PASS AS AMENDED carried 19-0 with REP. WINDY BOY voting by proxy.  
*REP. DICKENSON had returned.*

**EXECUTIVE ACTION ON HB 143**

**Motion:** REP. ALAN OLSON moved HB 143 DO PASS.

**Discussion:** REP. ALAN OLSON said plan fiduciaries cannot be responsible for wild swings in the stock market. PERS needs a system whereby employers can be monitored and audited to keep money going where it should.

**Motion:** REP. A. OLSON moved HB 143 CONCEPTUAL AMENDMENT TO STRIKE OUT LIMITING LIABILITY.

**Discussion:**

Ms. Heffelfinger said she could do a conceptual amendment. CHAIRMAN BARRETT asked if REP. OLSON had visited with the sponsor, REP. LAMBERT. He had not. REP. LEHMAN agreed with REP. OLSON. REP. GIBSON asked if the problem was late information or missing information. REP. JENT said the thrust of the bill was to limit liability of the Board for what an agency did. It is unfair if the Board is sued when the agency should be the defendant. He opposed the amendment. REP. A. OLSON told

REP. GIBSON the problem was incorrect filings, not late filing. He said the Board has a duty to audit employers. **REP. YOUNKIN** said she agreed with REP. JENT. **REP. HURWITZ** asked if the bill added to the problem and if she wanted to kill it. **REP. YOUNKIN** said she supports it without an amendment. **REP. A. OLSON** said that PERS Counsel Kelly Jenkins stated they had no errors/omission insurance because of cost; in that case, their duty is to audit.

**REP. WAGMAN** asked if PERS would know if the school payroll information is correct. **CHAIRMAN BARRETT** said they do follow up with annual statements. **REP. WAGMAN** said employees don't read it that closely; he favors the amendment. **REP. ROBERTS** favors with no amendment. His accountant was one day late and was fined \$5,000. He wants to protect individuals. **REP. BROWN** addressed REP. WAGMAN'S comment. The huge difference is Defined Benefit vs. Defined Contribution Plans. The critical payment must be made timely so a return can accrue if the market goes up within a week's time. She opposed the amendment.

**REP. A. OLSON** told REP. ROBERTS, "The buck stops at the top. The working stiff should not have to pay for mistakes [of others]." **REP. BERNIE OLSON** said testimony had voiced fears that, if the Board is sued, it affects innocent folks in the plan. **REP. BECKER** asked if the Board were paid. **CHAIRMAN BARRETT** said no, and they meet only quarterly.

**CHAIRMAN BARRETT** asked **Ms. Heffelfinger** to explain the conceptual amendment. **Ms. Heffelfinger** said it strikes substantive amendments in the bill limiting liability, and leaves just housecleaning and clarification of current law. **REP. BALLANTYNE** said REP. LAMBERT served 15 years on the PERS Board. He agreed with **REP. BROWN** to "keep it accountable." Question was called.

**Vote:** On a roll call vote, motion to amend **HB 143 failed 1-18** with **REP. WINDY BOY** voting by proxy. **REP. A. OLSON** voted aye.

**Vote:** On a voice vote, **HB 143 DO PASS** carried 19-0 with **REP. WINDY BOY** by proxy.

#### EXECUTIVE ACTION ON HB 154

**Motion:** **REP. ALAN OLSON** moved **HB 154 DO PASS**.

**Motion:** **REP. RALPH LENHART** moved **AMENDMENTS TO HB 154**.

**Discussion:** Ms. Heffelfinger explained that credit for part-time service is calculated regarding a final average, between teachers retirement and PERS. It annualizes salary using a complicated formula. REP. HURWITZ asked for a fiscal note. CHAIRMAN BARRETT said there was none.

**Vote:** On a voice vote, motion carried 19-0, with REP. WINDY BOY by proxy.

**Vote:** On a voice vote, HB 154 DO PASS AS AMENDED carried 19-0 with REP. WINDY BOY by proxy.

#### EXECUTIVE ACTION ON HB 213

**Motion:** REP. BROWN moved HB 213 DO PASS.

**Motion:** REP. JENT moved HB 213 AMENDMENTS. The new amendment was provided.

#### **EXHIBIT (sth18a12)**

#### Discussion:

REP. JACOBSON asked Ms. Melanie Symons to testify. Ms. Symons, Legal Counsel, PERB, testified the bold faced items referenced the amendment; the rest was the body of the bill. The amendment clarifies existing service credit versus service contract (example was the "1 for 5" time). It coordinates with HB 44, which this committee passed 19-0 and SB 66, which is identical; the amendment references both of these bills. Reserve personnel can now buy Reserves time, both service credit and membership credit. It changes the word "value" to "amount" in every case. It amends language about long term disabilities to comply with the Age Discrimination in Employment Act. The effective date was at first omitted; it puts that in.

**Vote:** On a voice vote, motion carried 19-0 with REP. WINDY BOY by proxy.

**Motion:** REP. BROWN moved HB 213 DO PASS AS AMENDED.

**Discussion:** REP. A. OLSON questioned whether everyone understood the bill.

**Vote:** On a voice vote, HB 213 DO PASS AS AMENDED carried 19-0 with REP. WINDY BOY by proxy.

**ADJOURNMENT**

Adjournment: 10 A.M.

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REP. DEBBY BARRETT, Chairman

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JOAN REIMAN, Secretary

DB/JR

**EXHIBIT (sth18aad)**